

FILED

11 JUN 24 PM 4:04
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY: _____

Daniel R. Tamez, Esq. State Bar No. 216619
GNAU & TAMEZ LAW GROUP
danieltamcz@sдинjuryattorney.com
1010 Second Avenue Suite 1750
San Diego, California 92101
Telephone: (619) 446-6736

Majed Nachawati, Esq. (not admitted)
Texas State Bar No. 24038319
4925 Greenville Ave, Suite 715
Dallas, Texas 75206

Jeremy R. Wilson, Esq. (not admitted)
Texas State Bar No. 24037722
302 N. Market St. Suite 510
Dallas, Texas 75202

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

CV11-05321 (AS (JEM))

CASE NO. _____

**CLASS ACTION COMPLAINT
FOR:**

GINA CHENIER and GAYA YOSRI
on Behalf of Themselves and All
Others Similarly Situated,

Plaintiffs,

v.

ORECK CORPORATION, a
Delaware Corporation,

Defendant.

- (1) Violation of Uniform
Commercial Code § 2-314;
- (2) Violation of Uniform
Commercial Code § 2-315;
- (3) Violation of CLRA § 1750, *et*
seq.;
- (4) Violation of Bus. & Prof. Code
§ 17200, *et seq.*;
- (5) Violation of Song-Beverly
Consumer Warranty Act;
- (6) Violation of California Civil
Code § 17500.

DEMAND FOR JURY TRIAL

1 Further, consumers whose data was compromised were not informed of their vulnerabilities and
2 exposure to credit card (or other) fraud allowing consumers to make an informed decision as to
3 whether to change credit cards numbers, close the exposed accounts, check their credit reports, or
4 take other preventive actions. Defendant failed to provide regular credit reports and credit
5 monitoring at their own expense to those whose private data was exposed and left vulnerable. This
6 caused, and continues to cause, millions of consumers fear, apprehension, and damages including
7 extra time, effort, and costs for credit monitoring, and extra time, effort, and costs associated with
8 replacing cards and account numbers, and burden, and is harming both consumers' and merchants'
9 ability to protect themselves from such fraud. This lawsuit seeks to remedy the injury incurred by
10 Plaintiff and the class as a result of Defendants' actions..

12 5. Plaintiff and all other users of PlayStation consoles and PlayStation Network ("PSN")
13 service nationwide, were further damaged as a result of the disruption of service and loss of data
14 security. This suit also seeks to redress SONY's failure to adequately provide service to PlayStation
15 consoles and PlayStation Network ("PSN").

17 6. As reported in numerous published sources, as a result of the breach of security and
18 loss of personal data belonging to Plaintiff and Class members, users experienced an inability to
19 access PSN services, including inability to use the online gaming network.

21 7. Defendant did not inform Plaintiff or all other users of PlayStation consoles and
22 PlayStation Network ("PSN") service nationwide regarding the reason for suspension of service or
23 the fact of the security breach for a week after the security breach.

24 8. As a result of the combination of wrongful acts and omissions of the Defendant in
25 this case, consumers and merchants have been harmed and are in significant danger of further harm.

26 9. Plaintiff seeks damages to compensate him and the Class for their loss (both
27 temporary and permanent) of use of their PlayStation consoles and the PlayStation Network and
28

1 Qriocity services (collectively referred to herein as “PSN” service), and their time and effort spent
2 attempting to protect their privacy, identities and financial information.

3 10. Furthermore, Plaintiff is informed and believes that Defendant has been aware for a
4 substantial period of time that PSN was prone to catastrophic loss of data from security breach.
5 However, Defendant failed to warn its customers of the problem or tried to prevent them from
6 suffering system suspension because of security breaches and data losses. Defendant failed to
7 effectively remedy the problems and defects inherent in the PSN.
8

9 11. SONY failed to inform consumers who purchased defective PlayStation consoles and
10 PSN service. Specifically, SONY did not warn customers about the risks inherent in purchasing
11 those consoles and relying upon SONY’s data security.
12

13 12. Plaintiff asserts claims for breach of the Song-Beverly Consumer Warranty Act
14 (“Song-Beverly Act”), for breach of express warranty pursuant to Commercial Code § 2313 and
15 pursuant to the Consumer Legal Remedies Act (“CLRA”), Civil Code § 1750, for Negligence,
16 claims under Business and Professions Code §§ 17200 and 17500, *et seq.*

17 13. Plaintiff seeks actual and/or compensatory damages; restitution; equitable relief, costs
18 and expenses of litigation, including attorneys’ fees; and all additional and further relief that may be
19 available.
20

21 II.

22 PARTIES

23 14. Plaintiff, TONY ROLAND MARTINEZ, is a citizen of the State of Texas and the United
24 States of America, who maintains a residence in San Antonio, Texas, first purchased a SONY
25 PlayStation3 console, the PSN service and multiplayer games for use on the PSN service in or
26 around November of 2010. On or about April 17-18, 2011, Plaintiff noticed he had lost access to
27 PSN. Plaintiff did not know of the security breach and loss of his personal and credit card data
28

1 stored on SONY's servers.

2 15. Defendant, SONY COMPUTER ENTERTAINMENT AMERICA LLC (formerly
3 SONY COMPUTER ENTERTAINMENT AMERICA INC.) ("SCEA") is a Delaware limited
4 liability company with its executive offices and principal place of business and corporate
5 headquarters in Foster City, California.
6

7 16. Defendant, SONY NETWORK ENTERTAINMENT INTERNATIONAL LLC
8 ("SNEI") is a Delaware limited company with its executive office and principal place of business
9 and corporate headquarters in Los Angeles, California.

10 III.

11 JURISDICTION AND VENUE

12 17. This case is subject to original jurisdiction in this court pursuant to the Class Action
13 Fairness Act of 2005. Pub. L. No. 109-2, 119 Stat. 4 (codified in scattered section of 28
14 U.S.C.)("CAFA") because at least one member of the proposed class has a different citizenship from
15 a defendant and the total matter in controversy exceeds \$5,000,000. Thus, this court has subject
16 matter jurisdiction over this action pursuant to 28 U.S.C. § 1332. Venue is proper in the Northern
17 District of California pursuant to 28 U.S.C. § 1391 because this District is the district in which
18 defendant SCEA is located and a District in which a substantial part of the events or omissions
19 giving rise to the claim occurred.
20

21 18. **INTRADISTRICT ASSIGNMENT** – Pursuant to Civil Local Rule 3-2(e), this case
22 shall be assigned to the San Francisco Division as it arises from San Mateo County.
23

24 IV. CLASS ACTION ALLEGATIONS

25 19. Plaintiff brings this action pursuant to Fed. R. Civ. P. 23(b)(2) and Fed. R. Civ. P. 23
26 (b)(3) on behalf of himself and the following Nationwide Class:

27 All persons or entities that purchased a Sony PlayStation console and
28 subscribed to the PlayStation Network or Qriocity service and suffered
loss of service and breach of security on or about April 17-19, 2011.

1 Excluded from this Class are SONY COMPUTER
2 ENTERTAINMENT AMERICA LLC and SONY NETWORK
3 ENTERTAINMENT INTERNATIONAL LLC, and their affiliates,
employees or agents, or persons or entities that distributes or sell the
Sony PlayStation and the PlayStation Network service.

4 20. The members of the Class are so numerous that joinder of all members would be
5 impracticable. Plaintiff estimates that there are approximately seventy-seven (77) million purchasers
6 of the Sony PlayStation and the PSN service who have suffered loss of service who have suffered
7 loss of service and breach of security.

8
9 21. There are questions of law and fact to be members of the Class that predominate over
10 any questions affecting only individual members, including:

- 11 • whether Defendant's conduct constitutes negligence;
- 12 • whether Defendant's conduct violates California's Consumer Legal Remedies Act;
- 13 • whether Defendant's conduct violates Cal. Bus. & Prof. Code § 17200;
- 14 • whether Defendant's conduct violates Cal. Bus. & Prof. Code § 17500;
- 15 • whether Defendants breached the warranties alleged;
- 16 • whether Defendant misrepresented the PSN service capabilities to protect data;
- 17 • whether Defendant concealed and did not disclose the defects in the PSN service
18 capabilities to protect data;
- 19 • whether Defendant unreasonably delayed in remedying the suspension of service and
20 loss of data.
- 21
- 22

23 22. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff has
24 no interests antagonistic to those of the Class and are subject to no unique defenses.

25 23. Plaintiff will fairly and adequately protect the interests of the Class and have retained
26 attorneys experienced in class and complex litigation.

27 24. A class action is superior to other available methods for the fair and efficient
28

1 adjudication of this controversy for the following reasons:

- 2 • It is economically impractical for each member of the Class to prosecute individual
- 3 actions.
- 4 • The class is readily definable.
- 5 • Prosecution as a class action will eliminate the possibility of repetitious litigation.
- 6 • A class action will enable claims to be handled in an orderly and expeditious manner.
- 7 • A class action will save time and expense and will ensure uniformity of decisions.
- 8 • Plaintiffs do not anticipate any difficulty in the management of this litigation as a
- 9 class action.

10 23. San Mateo county, California, as the site of SCEA's headquarters and the place where
 11 all significant decision-making occurred with respect of the PSN service, is the center or gravity for
 12 this action such that it is appropriate and consistent with existing law to certify the class of
 13 consumers proposed in the Complaint to be litigated to this District.

14 24. Certification of such a class under the laws of California is appropriate because:

- 15 • SCEA is a limited liability company conducting substantial business in and from
- 16 California.
- 17 • SNEI is a limited liability company conducting substantial business in and from
- 18 California.
- 19 • SCEA's and SNEI's principal and executive offices, as well as its corporate
- 20 headquarters, are located in California.
- 21 • SCEA's and SNEI's marketing, promotional activities and literature are coordinated
- 22 at, emanate from and/or are developed at their California headquarters.
- 23 • The UCL and § 17500 expressly apply to claims asserted by out-of-state Class
- 24 members regarding false representation emanating from the State of California.
- 25 • A significant number of Class members reside in the State of California.
- 26 • SONY expressly attempts to impose California law upon purchasers of the
- 27 PlayStation and PSN service.

28 VI.

SUBSTANTIVE ALLEGATIONS

1 26. Defendant represents and advertises the PlayStation consoles and PSN and Qriocity
2 services as being an exceptionally powerful and secure gaming system and online gaming network,
3 offering gaming, music and movies to people with PlayStation consoles.

4 27. The PlayStation consoles and PSN service not only allows users to play games online
5 but also allows users to buy content and services. Such services include new or required levels for
6 games, movies, television shows and/or original programs. Users are also allowed to trade points
7 earned on games for products and services related to online gaming

8 28. On information and belief, PSN's security was breached between April 17-19, 2011,
9 exposing names, addresses, email addresses, birthdates, usernames, passwords, logins, security
10 questions and possibly credit card data belongings to approximately seventy-seven (77) million user
11 accounts.
12

13 29. On information and belief, Defendant reacted to the security breach by shutting down
14 the PSN. However, Defendant failed to advise Plaintiff or members of the Class why the PSN was
15 shut down until Tuesday, April 26, 2011.
16

17 30. Defendant's shutdown of PSN prevented Plaintiff and the Class from buying and
18 downloading games or making use of their PlayStation consoles for multiplayer gaming over the
19 Internet. Defendant promised customers the PSN would be available and running again a week from
20 May 1st but the PSN was not back until thirteen (13) days later on May 14th, 2011.
21

22 31. On information and belief, children with accounts established buy their parents also
23 may have had their data exposed.

24 32. As well as apologizing publicly for the lapse of care SONY also admitted the gravity
25 of the situation and warned its customers that their personal data had been stolen, urging users to
26 change passwords and check their credit card accounts for fraudulent behavior. SONY also claimed
27 it would offer its US customers free time on the system and identity theft monitoring services as
28

1 compensation.

2 33. SONY misrepresented the quality and reliability of the PSN service and its ability to
3 keep data secure, including, but not limited to its representation in its Privacy Policy, which states in
4 pertinent part:

5 **Accuracy & Security** We take reasonable measures to protect the
6 confidentiality, security, and integrity of the personal information
7 collected from our website visitors. Personal information is stored in
8 secure operating environments that are not available to the public and
9 that are only accessible to authorized employees. We also have
security measures in place to protect the loss, misuse, and alteration of
the information under our control...

10 35. On information and belief, SONY failed to maintain proper and adequate backups
11 and/or redundant systems, failed to encrypt data and establish adequate firewalls to handle a server
12 intrusion contingency, failed to provide prompt and adequate warnings of security breaches, and
13 unreasonably delayed in bringing the PSN service back on line.

14 36. The harm caused by Defendant's false and misleading statements and omissions
15 grossly outweigh any benefit that could be attributed to them.

16 37. On information and belief, Defendant is and has been aware of the scope of the
17 problems with the PSN service but failed to take substantial corrective action. On information and
18 belief, Defendant has taken only minimal action in response to consumer complaints.

19 38. Under a number of California consumer statutes and equitable provisions the
20 consumer product protections of California law are unwaivable by the use of any shrink-wrap
21 warranty limitations. For example, the Song-Beverly Acts states expressly:

22 Any waiver by the buyer of consumer goods of the provisions of this
23 chapter, except as expressly provided in this chapter, shall be deemed
24 contrary to public policy and shall be unenforceable and void

25 39. On information and belief SONY was, at all times relevant herein, in violation of the
26 Payment Card Industry Data Security Standard by, including (without limitation), the following
27
28

1 conduct: improperly storing and retaining credit card transaction and consumer data in an
2 unencrypted, unsecured, and unauthorized manner, failing to all reasonable steps to destroy, or
3 arrange for the destruction of a customer's records within its custody or control containing personal
4 information which is no longer authorized to be retained by the business by failing to shred, erase, or
5 otherwise modify the personal in those records to make it unreadable or undecipherable through any
6 means; failing to properly install, implement, and maintain a firewall to protect consumer data;
7 failing to properly analyze and restrict IP addresses to and from its computer systems; or properly
8 perform dynamic packet filtering; failing to properly restrict access to its computers; failing to
9 properly protect stored data; failing to encrypt cardholder data and other sensitive information;
10 failing to properly implement and update adequate anti-virus and anti-spyware software that would
11 properly prevent unauthorized data transmissions caused by viruses, executable or scripts, from its
12 servers or computer systems; failing to track and monitor all access to network resources and
13 cardholder data; failing to regularly test security systems and processes or maintains an adequate
14 policy that addresses information security, or to run vulnerability scans.

17 40. On information and belief, due to security vulnerabilities at SONY, computer
18 "hackers" (authorized third parties) gained access to SONY's computer data and compromised the
19 security of approximately seventy-seven (77) Million credit card accounts and related security,
20 identity and transaction data, including (without limitation) such data of California residents.

22 41. On information and belief, one or more unauthorized persons who accessed SONY's
23 computer data gained unauthorized access to the personal financial, credit and debit account,
24 identifying, and other nonpublic information of plaintiffs herein.

25 42. The compromised and stolen data was private and sensitive in nature and, on
26 information and belief, was left unencrypted by SONY on its servers and included (without
27 limitation), on information and belief, consumers' names, credit card account numbers, access codes
28

1 and other personal identifying information, including, but not limited to addresses, birthdates,
2 usernames, passwords, logins and security questions.

3
4 **VII.**

5 **CAUSES OF ACTION**

6 **A. Count I -- Violation of Bus. & Prof. Code §17200**

7 43. Plaintiff realleges and incorporates the above allegations by reference as if set forth
8 fully herein.

9 44. Plaintiff and the class have suffered injury in fact and lost money or property as a
10 result of such unfair competition.

11 45. SONY has engaged in unfair, unlawful and fraudulent business practices as set forth
12 above.

13 46. By engaging in the above-described acts and practices, SONY has committed one or
14 more acts of unfair competition within the meaning of Bus. & Prof. Code §17200, *et seq.*

15 48. Defendant's acts and practices have and/or are likely to deceive members of the
16 consuming public.

17 49. Defendant's acts and practices are unlawful because they violate Civ. Code §§1572,
18 1709, 1710, 1770(a)(5), 1770(a)(7), 1770(a)(9). Defendant's acts and practices are also unlawful
19 because they violate Bus. & Prof. Code §17500, *et seq.* Defendants unlawful and unfair practices
20 include, without limitation, defendants', and each of their, unlawful negligence and violations of
21 California Const. Art. I; Civil Code §§ 1798.81, 1798.81.5 prohibition against unreasonable
22 penalties contained in Civil Code § 1671, and other laws of the State of California.

23 50. The breach of SONY's security was the direct and proximate result, on information
24 and belief, of SONY's failure to implement and maintain security procedures and practices
25 reasonably designed to protect the credit card account and other nonpublic information of
26
27
28

1 consumers, including, without limitation, Plaintiff and the Class herein. As stated above, said breach
2 of security and unauthorized access to the private nonpublic information of Plaintiff and the Class
3 herein was reasonably foreseeable.

4 51. Defendant, through its business relationship with Plaintiff and the Class herein, and
5 with each other, assumed the duty to keep the credit card account and other nonpublic information of
6 Plaintiff and the Class that is in their possession private and secure. By their acts and omissions
7 described herein, defendants, and each of them, unlawfully breached this duty.

8 52. Defendant was in a special and a fiduciary relationship with the Plaintiff and the
9 Class by reason of their entrustment with credit card account and other nonpublic information. By
10 reason said of special and fiduciary relationship, defendant had duty of care to use reasonable means
11 to keep the credit card account and other nonpublic information of the Plaintiff and the Class that is
12 on their possession private and secure, and inform Plaintiff and the Class members forthwith when
13 any compromise of the security of such information occurred. Defendant has unlawfully breached
14 these duties.

15 53. Pursuant to the right to privacy insured by California Const., Art. I, Section 1,
16 Defendants had duty to use reasonable care to prevent the unauthorized access, use or dissemination
17 of the credit card account and other nonpublic information of the Plaintiff and the Class herein. On
18 information and belief, Defendants unlawfully breached said duty.

19 54. Pursuant to California Civil Code § 1798.81.5, defendant had duty to implement and
20 maintain reasonable security procedures and practices to with respect to the credit card account and
21 other nonpublic information of consumers, including, without limitation, the Plaintiff and the Class
22 herein, in order to protect such information from unauthorized access, use or disclosure. On
23 information and belief, defendants unlawfully breached said duty.

24 55. On information and belief, the Plaintiff's and the Class's information that was
25
26
27
28

1 disclosed to unauthorized third parties, due to the breach of SONY's security was not encrypted.
2 Pursuant to California Civil Code § 1798.82, defendant had, and continues to have, a duty to timely
3 disclose the breach of security to Plaintiff and the Class whose personal information was, or is
4 reasonably believed to have been, acquired by unauthorized persons. Defendant unlawfully breached
5 this duty by, amongst other ways, delays and failure to properly disclose.
6

7 56. Pursuant to the California Financial information Privacy Act, California Finance
8 Code §§ 4050 *et seq.*, defendant breached unlawfully the requirements to prevent the unauthorized
9 disclosures of nonpublic personal information of the Plaintiff and the Class to unaffiliated third
10 parties. Fin. C. § 4052.5. defendant also unlawfully breached its duty to refrain from negligently
11 disclosing nonpublic information pertaining to the Plaintiff and the Class to the third parties. Fin. C.
12 § 4057.
13

14 57. Pursuant to the California Constitutional Right to Privacy and California law there is
15 an explicit public policy, creating and affirmative and continuing obligation on Defendants herein, to
16 respect consumers' privacy and to provide reasonable consumer computer data security under the
17 circumstances, including, without limitation, the Plaintiff and the Class herein, and to protect the
18 security and confidentiality of their nonpublic personal information. Such duties include, without
19 limitation, the duty to ensure security, protect against anticipated threats, and protect against
20 unauthorized access. Defendants, on information and belief, breached said duties.
21

22 58. Defendant's acts and practices are also unlawful because they violate the Song-
23 Beverly Act, Civ. Code § 1790, *et seq.*

24 59. Plaintiff, on behalf of himself, on behalf of the Class and on behalf of the common or
25 general interest, seeks an order of this Court awarding restitution, disgorgement, injunctive relief and
26 all other relief allowed under §17200,*et seq.*, plus interest, attorneys' fees and costs pursuant to, *inter*
27 *alia*, C.C.P. §1021.5.
28

1 60. Plaintiff and the Class have been harmed by these actions and bring this suit to
2 remedy these violations..

3 **B. Count II -- Violation of Bus. & Prof. Code § 17500**

4 61. Plaintiff realleges and incorporates the above allegations by reference as if set forth
5 fully herein.

6 62. Plaintiff brings this cause of action on behalf of himself, on behalf of the Class and on
7 behalf of the common or general interest. Plaintiff has suffered injury in fact and has lost money or
8 property as a result of Defendants violation of Bus. & Prof. Code § 17500, *et seq.*

9 63. Beginning in or before 2006, Defendant engaged in advertising and marketing to the
10 public and offered the PlayStation consoles and PSN service for sale throughout the United States,
11 including California, and the world.

12 64. Defendant has engaged in the advertising and marketing alleged herein with intent to
13 directly or indirectly induce the purchase of the PlayStation consoles and PSN service.

14 65. Defendant's advertisements and marketing representations regarding the technical
15 and other characteristics of the PlayStation consoles and PSN service are false, misleading and
16 deceptive as set forth more fully above.

17 66. At the time Defendant made and disseminated the statements alleged herein, it knew
18 or should have known that the statements were untrue or misleading, and acted in violations of Bus.
19 & Prof. Code §17500, *et seq.*

20 67. Defendant actively concealed its knowledge that the PlayStation consoles and PSN
21 service contained inherent defects.

22 68. Plaintiff has been harmed. Plaintiff, on behalf of himself, on behalf of the Class and
23 on behalf of the common or general interest, seeks restitution, disgorgement, injunctive relief and all
24 other relief allowable under §17500, *et seq.*

1 69. Plaintiff meets the standing requirements of C.C.P. 382 to bring this cause of action
2 because, among other reasons, the question is one of a common or general interest, is a question of
3 many persons and/or the parties are numerous and it is impracticable to bring them all before the
4 Court.

5
6 **C. Count III -- Breach of the Song-Beverly**

7 70. Plaintiff realleges and incorporate the above allegations by reference as if set forth
8 fully herein.

9 71. Plaintiff on behalf of himself and the Class for breach of implied warranty under the
10 Song-Beverly Act, Civ. Code § 1790, *et seq.*

11 72. The PlayStation consoles are “consumer goods” within the meaning of Civ. Code
12 §1791(a).

13 73. Defendant’s implied warranty of merchantability arose out of and/or was related to
14 the sales of the PlayStation consoles and PSN service.

15 74. As set forth more fully above, Defendant has failed to comply with its obligations
16 under its implied warranty of merchantability.

17 75. Plaintiff and the Class have suffered and will continue to suffer damages as a result of
18 Defendant’s failure to comply with its warranty obligations. Accordingly, Plaintiff and the Class are
19 entitled to recover such damages under the Song-Beverly Act, including damages pursuant to Civ.
20 Code §§1791.1(d) and 1974.

21 76. Defendant’s breaches of warranty, as set forth above, were willful. Accordingly, a
22 civil penalty should be imposed upon Defendant in an amount not to exceed twice the amount of
23 actual damages.

24
25
26 **D. Count IV -- Violation of Consumer Legal Remedies Act**

27 77. Plaintiff realleges and incorporates the above allegations by reference as if set forth
28

1 fully herein.

2 78. Plaintiff brings this claim individually and on behalf of the Class against Defendant.

3 79. Defendant has engaged in deceptive practices, unlawful methods of competition
4 and/or unfair acts as defined by Civ. Code §1750, *et seq.* to the detriment of Plaintiff, members of
5 general public and the Class. Plaintiff, the general public and members of the Class have suffered
6 harm as proximate result of the violation of law and wrongful conduct of Defendant alleged herein.
7

8 80. Defendant intentionally, knowingly and unlawfully perpetrated harm upon Plaintiff
9 by the above described facts. To wit, Defendant's actions in selling defective products and failing to
10 remedy these defects have violated the following provisions of the CLRA:

11 (a) Civil Code §1770(a)(5): Representing that goods or services have
12 sponsorship, approval, characteristics, ingredients, uses, benefits or quantities which they do not
13 have.
14

15 (b) Civil Code §1770(a)(7): Representing that goods or services are of a particular
16 standard, quality or grade, or that goods are of a particular style or model, if they are of another.

17 (c) Civil Code §1770(a)(9): Advertising goods or services with intent not to sell
18 them as advertised.

19 (d) Civil Code §1770(a)(14): Representing that a transaction confers or involves
20 rights, remedies or obligations which it does not have or involve, or which are prohibited.

21 (e) Civil Code §1770(a)(19): Inserting an unconscionable provision in the
22 contract.
23

24 81. The Defendant's policies and practices are unlawful, unethical, oppressive, fraudulent
25 and malicious. The gravity of the harm to all consumers and to the general public from Defendant's
26 policies and practices far outweighs any purported utility those policies and practices have.

27 82. Pursuant to Civ. Code §1780(a), Plaintiff seeks an order enjoining Defendant from
28

engaging in the methods, acts or practices alleged herein.

83. Pursuant to Civ. Code §1781, if Defendant do not rectify it illegal acts within 30 days, Plaintiff intend to amend this Complaint to add claims for:

- a) actual damages;
- b) restitution of money to Plaintiff, the general public and Class members;
- c) punitive damages;
- d) attorneys' fees and costs; and
- e) other relief this Court deems proper.

E. Count V -- Breach of Express Contract

84. Plaintiff realleges and incorporates the above allegations as if set forth fully herein.

85. Defendant agreed to, among other things, properly maintain Plaintiffs and Class members' data and provide uninterrupted PSN service. In exchange, Class members agreed to purchase PlayStation consoles and PSN service.

86. Valid consideration existed, as Plaintiff and Class members paid money in exchange for Defendant's agreement to, among other things, maintain Plaintiff's and the Class members' data and provide uninterrupted service.

87. The parties' agreement is contained in customer contracts and related documents.

88. Defendant breached its contracts because Defendant did not properly maintain Plaintiff's and Class members' electronic information or provide uninterrupted service.

89. Class members suffered and will continue to suffer damages including, but not limited to, loss of their electronic information and an interruption in service.

F. Count VI - Breach of Implied Contract

90. Plaintiff realleges and incorporates the above allegations by reference as if set forth fully herein.

1 91. Defendant agreed to, among other things, properly maintain Plaintiffs' and Class
2 members' data and provide uninterrupted PSN service. In exchange, Plaintiff and the Class
3 members' agreed to purchase PlayStation consoles and PSN service.

4 92. Defendant entered into implied contracts with Plaintiff and the Class members.
5 Implied contracts arose from the course of conduct between the parties, as well as disclosures on
6 Defendant's websites, in advertising materials, on product packaging, and/or on customer contracts.
7 For example, Defendant disclosed on numerous occasions as alleged herein that users' data would
8 not be disclosed to third parties. The disclosures created a reasonable expectation that users' data
9 would be adequately maintained, and that the PSN functionally would be continuously available.
10

11 93. Valid consideration existed, as Plaintiff and Class members paid money to Defendant
12 in exchange for Defendant's agreement to, among other things, maintain users' data and provide
13 uninterrupted PSN service.
14

15 94. Defendant breached their implied contracts because they did not properly maintain
16 Plaintiff and the Class members' electronic information or provide uninterrupted service.

17 95. Plaintiff and Class members suffered and will continue to suffer damages including,
18 but not limited to, loss of their personal, private financial information and an interruption in service.
19

20 **G. Count VII -- Negligence**

21 96. Plaintiff realleges and incorporates the above allegations by reference as if set forth
22 fully herein.

23 97. Plaintiff brings this cause of action on behalf of himself and the Class. Plaintiff have
24 suffered injury in fact and lost money or property as a result of such negligence.

25 98. Defendant owed a duty of care to Plaintiff, individually and to the Class he
26 represents.

27 99. Defendant owed a duty to Plaintiff and the Class to use reasonable care in
28

1 maintaining the PlayStation and PSN service in a manner that protected the data Plaintiff and the
2 Class uploaded to the PSN service;

3 100. Defendant breached their duty to Plaintiff and the Class by failing to ensure the
4 integrity of their data;

5 101. Had the Defendant exercised reasonable care and skill protecting the data of Plaintiff
6 and class members, data would not have been lost.

7 102. Plaintiff and the Class have suffered damages, including, but not limited to, economic
8 damages, according to proof at trial.

9
10 **VIII.**

11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, Plaintiff, on behalf of himself, all others similarly situated and pray for
13 judgment against Defendant as follows:

- 14
- 15 1) An order certifying this case as a class action and appointing Plaintiff and his counsel to
16 represent the Class.
 - 17 2) Restitution and disgorgement of all amounts obtained by Defendant as a result of its
18 misconduct, together with interest thereon from the date of payment, to the victims of
19 such violations.
 - 20 3) Actual damages for injuries suffered by Plaintiff and the Class.
 - 21 4) Compensatory money damages according to proof.
 - 22 5) Statutory damages according to proof.
 - 23 6) An order requiring Defendant to immediately ceases its wrongful conduct as set forth
24 above; enjoining Defendant from continuing to falsely market and advertise, conceal
25 material information and conduct business via the unlawful and unfair business acts and
26 practices complained of herein; ordering Defendant to engage in corrective notice
27
28

campaign; and requiring Defendant to refund to Plaintiff and all members of the Class the funds paid to Defendant for the defective PlayStations and PSN services; ordering Defendant to pay for credit card monitoring for Plaintiff and all members of the Class.

7) Attorneys' fees and costs.

8) For statutory prejudgment interest.

9) For such other relief as this Court may deem just and proper.

IX.

JURY DEMAND

Plaintiff demands a trial by jury.

Respectfully submitted,

GNAU & TAMEZ LAW GROUP,LLP

/s/ Daniel R. Tamez

Daniel R. Tamez, Esq. State Bar No. 216619
danieJtamcz@sdiinjuryaltorney.com
1010 SECOND A VENUE, SUITE 1750
SAN DIEGO, CALIFORNIA 92101
Telephone: (619) 446-6736

FEARS | NACHAWATI LAW FIRM, P.L.L.C.

Majed Nachawati
SBN 24038319
mn@fnlawfirm.com
Bryan Fears
SBN 24040886
fears@fnlawfirm.com
Fears I Nachawati Law Finn
4925 Greenville Ave, Suite 715
Dalias. Texas 75206
Telephone: (214) 890-0711
Facsimile: (214) 890-0712

(*pro hac vice* application to be filed)

WILSON TROSCLAIR & LOVINS, P.L.L.C.

Jeremy R. Wilson
State Bar No. 24037722

1 Kenneth P. Trosclair
2 State Bar No. 24033548
3 302 N. Market St.
4 Suite 510
5 Dallas, Texas 75202
6 Telephone: (214) 484-1930
7 Facsimile: (214) 276-1475

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
(pro hac vice application to be filed)

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that on July 1, 2011, I electronically filed the above Complaint with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or by U. S. mail for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Daniel R. Tamez

Daniel R. Tamez

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Christina A. Snyder and the assigned discovery Magistrate Judge is John E. McDermott.

The case number on all documents filed with the Court should read as follows:

CV11- 5321 CAS (JEMx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Case 2:11-cv-05321-GAS-JEM Document 1
Name & Address: Daniel R. Tamez, Esq. Gnau &
Tamez Law Group, LLP; 1010 2nd Ave. Ste 1750,
San Diego, CA 92101; 619-446-6736; Majed
Nachawati, Esq. 4925 Greenville Ave Ste 715, Dallas
Tx 75206; 866-705-7584

Filed 06/24/11 Page 23 of 25 Page ID #:25

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Gina Chenier and Gaya Yosri on behalf of Themselves
and All Others Similarly Situated,

PLAINTIFF(S)

v.

Oreck Corporation, a Delaware Corporation

DEFENDANT(S).

CASE NUMBER

CV11-05321 (AS JEMx)

SUMMONS

TO: DEFENDANT(S): Oreck Corporation, a Delaware Corporation

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Daniel R. Tamez, Esq., whose address is 1010 2nd Avenue Suite 1750, San Diego, California 92101. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

JUN 24 2011

Clerk, U.S. District Court

JULIE PRADDEAL

Dated: _____

By: _____

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

TO CONFORM

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)
Gina Chenier and Gaya Yosri on Behalf of Themselves and All Others Similarly
Situating, Plaintiffs

DEFENDANTS
Oreck Corporation, a Delaware Corporation

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
Daniel Tamez, Esq. 1010 2nd Ave 1750, San Diego CA 92101; 619-446-6736;
Majed Nachawati, Esq. 4925 Greenville Ave Ste 715, Dallas TX 75206;
866-705-7584; Jeremy Wilson, Esq. 302 N. Market St Ste 510, Dallas, TX 75202

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN (Place an X in one box only.)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☒ Yes ☐ No

☐ MONEY DEMANDED IN COMPLAINT: \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Uniform Commercial Code 2-314 & 2-315; CLRA 1750, et seq.; Bus. & Prof Code 17200, et seq; Song-Beverly Consumer Warranty Act; CA Civil Code 17500

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General Habeas Corpus	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 862 Black Lung (923)
<input checked="" type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 369 Other Personal Injury Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 370 Other Personal Injury		<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 371 Other Personal Injury			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 372 Other Personal Injury			<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 373 Other Personal Injury			
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 374 Other Personal Injury			
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 375 Other Personal Injury			
		<input type="checkbox"/> 376 Other Personal Injury			
		<input type="checkbox"/> 377 Other Personal Injury			
		<input type="checkbox"/> 378 Other Personal Injury			
		<input type="checkbox"/> 379 Other Personal Injury			
		<input type="checkbox"/> 380 Other Personal Injury			
		<input type="checkbox"/> 381 Other Personal Injury			
		<input type="checkbox"/> 382 Other Personal Injury			
		<input type="checkbox"/> 383 Other Personal Injury			
		<input type="checkbox"/> 384 Other Personal Injury			
		<input type="checkbox"/> 385 Other Personal Injury			
		<input type="checkbox"/> 386 Other Personal Injury			
		<input type="checkbox"/> 387 Other Personal Injury			
		<input type="checkbox"/> 388 Other Personal Injury			
		<input type="checkbox"/> 389 Other Personal Injury			
		<input type="checkbox"/> 390 Other Personal Injury			
		<input type="checkbox"/> 391 Other Personal Injury			
		<input type="checkbox"/> 392 Other Personal Injury			
		<input type="checkbox"/> 393 Other Personal Injury			
		<input type="checkbox"/> 394 Other Personal Injury			
		<input type="checkbox"/> 395 Other Personal Injury			
		<input type="checkbox"/> 396 Other Personal Injury			
		<input type="checkbox"/> 397 Other Personal Injury			
		<input type="checkbox"/> 398 Other Personal Injury			
		<input type="checkbox"/> 399 Other Personal Injury			
		<input type="checkbox"/> 400 Other Personal Injury			
		<input type="checkbox"/> 401 Other Personal Injury			
		<input type="checkbox"/> 402 Other Personal Injury			
		<input type="checkbox"/> 403 Other Personal Injury			
		<input type="checkbox"/> 404 Other Personal Injury			
		<input type="checkbox"/> 405 Other Personal Injury			
		<input type="checkbox"/> 406 Other Personal Injury			
		<input type="checkbox"/> 407 Other Personal Injury			
		<input type="checkbox"/> 408 Other Personal Injury			
		<input type="checkbox"/> 409 Other Personal Injury			
		<input type="checkbox"/> 410 Other Personal Injury			
		<input type="checkbox"/> 411 Other Personal Injury			
		<input type="checkbox"/> 412 Other Personal Injury			
		<input type="checkbox"/> 413 Other Personal Injury			
		<input type="checkbox"/> 414 Other Personal Injury			
		<input type="checkbox"/> 415 Other Personal Injury			
		<input type="checkbox"/> 416 Other Personal Injury			
		<input type="checkbox"/> 417 Other Personal Injury			
		<input type="checkbox"/> 418 Other Personal Injury			
		<input type="checkbox"/> 419 Other Personal Injury			
		<input type="checkbox"/> 420 Other Personal Injury			
		<input type="checkbox"/> 421 Other Personal Injury			
		<input type="checkbox"/> 422 Other Personal Injury			
		<input type="checkbox"/> 423 Other Personal Injury			
		<input type="checkbox"/> 424 Other Personal Injury			
		<input type="checkbox"/> 425 Other Personal Injury			
		<input type="checkbox"/> 426 Other Personal Injury			
		<input type="checkbox"/> 427 Other Personal Injury			
		<input type="checkbox"/> 428 Other Personal Injury			
		<input type="checkbox"/> 429 Other Personal Injury			
		<input type="checkbox"/> 430 Other Personal Injury			
		<input type="checkbox"/> 431 Other Personal Injury			
		<input type="checkbox"/> 432 Other Personal Injury			
		<input type="checkbox"/> 433 Other Personal Injury			
		<input type="checkbox"/> 434 Other Personal Injury			
		<input type="checkbox"/> 435 Other Personal Injury			
		<input type="checkbox"/> 436 Other Personal Injury			
		<input type="checkbox"/> 437 Other Personal Injury			
		<input type="checkbox"/> 438 Other Personal Injury			
		<input type="checkbox"/> 439 Other Personal Injury			
		<input type="checkbox"/> 440 Other Personal Injury			
		<input type="checkbox"/> 441 Other Personal Injury			
		<input type="checkbox"/> 442 Other Personal Injury			
		<input type="checkbox"/> 443 Other Personal Injury			
		<input type="checkbox"/> 444 Other Personal Injury			
		<input type="checkbox"/> 445 Other Personal Injury			
		<input type="checkbox"/> 446 Other Personal Injury			
		<input type="checkbox"/> 447 Other Personal Injury			
		<input type="checkbox"/> 448 Other Personal Injury			
		<input type="checkbox"/> 449 Other Personal Injury			
		<input type="checkbox"/> 450 Other Personal Injury			
		<input type="checkbox"/> 451 Other Personal Injury			
		<input type="checkbox"/> 452 Other Personal Injury			
		<input type="checkbox"/> 453 Other Personal Injury			
		<input type="checkbox"/> 454 Other Personal Injury			
		<input type="checkbox"/> 455 Other Personal Injury			
		<input type="checkbox"/> 456 Other Personal Injury			
		<input type="checkbox"/> 457 Other Personal Injury			
		<input type="checkbox"/> 458 Other Personal Injury			
		<input type="checkbox"/> 459 Other Personal Injury			
		<input type="checkbox"/> 460 Other Personal Injury			
		<input type="checkbox"/> 461 Other Personal Injury			
		<input type="checkbox"/> 462 Other Personal Injury			
		<input type="checkbox"/> 463 Other Personal Injury			
		<input type="checkbox"/> 464 Other Personal Injury			
		<input type="checkbox"/> 465 Other Personal Injury			
		<input type="checkbox"/> 466 Other Personal Injury			
		<input type="checkbox"/> 467 Other Personal Injury			
		<input type="checkbox"/> 468 Other Personal Injury			
		<input type="checkbox"/> 469 Other Personal Injury			
		<input type="checkbox"/> 470 Other Personal Injury			
		<input type="checkbox"/> 471 Other Personal Injury			
		<input type="checkbox"/> 472 Other Personal Injury			
		<input type="checkbox"/> 473 Other Personal Injury			
		<input type="checkbox"/> 474 Other Personal Injury			
		<input type="checkbox"/> 475 Other Personal Injury			
		<input type="checkbox"/> 476 Other Personal Injury			
		<input type="checkbox"/> 477 Other Personal Injury			
		<input type="checkbox"/> 478 Other Personal Injury			
		<input type="checkbox"/> 479 Other Personal Injury			
		<input type="checkbox"/> 480 Other Personal Injury			
		<input type="checkbox"/> 481 Other Personal Injury			
		<input type="checkbox"/> 482 Other Personal Injury			
		<input type="checkbox"/> 483 Other Personal Injury			
		<input type="checkbox"/> 484 Other Personal Injury			
		<input type="checkbox"/> 485 Other Personal Injury			
		<input type="checkbox"/> 486 Other Personal Injury			
		<input type="checkbox"/> 487 Other Personal Injury			
		<input type="checkbox"/> 488 Other Personal Injury			
		<input type="checkbox"/> 489 Other Personal Injury			
		<input type="checkbox"/> 490 Other Personal Injury			
		<input type="checkbox"/> 491 Other Personal Injury			
		<input type="checkbox"/> 492 Other Personal Injury			
		<input type="checkbox"/> 493 Other Personal Injury			
		<input type="checkbox"/> 494 Other Personal Injury			
		<input type="checkbox"/> 495 Other Personal Injury			
		<input type="checkbox"/> 496 Other Personal Injury			
		<input type="checkbox"/> 497 Other Personal Injury			
		<input type="checkbox"/> 498 Other Personal Injury			
		<input type="checkbox"/> 499 Other Personal Injury			
		<input type="checkbox"/> 500 Other Personal Injury			

CV11-05321

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). **IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). **RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	Salt Lake City, Utah

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Delaware	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____ Date 06-23-11

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))